

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-218509

DATE: April 26, 1985

MATTER OF: Charles Vrana and Son Construction
Company

DIGEST:

1. Protest that bid acceptance period contained in solicitation is excessive must be filed prior to bid opening.
2. Bid which offered a bid acceptance period shorter than that required in a solicitation is nonresponsive and bidder may not modify bid after opening nor may the deficiency be waived.

Charles Vrana and Son Construction Company (Vrana) protests the rejection of its low bid as nonresponsive under invitation for bids (IFB) No. DACA45-85-B-0034, issued by the United States Army Corps of Engineers (Army), for an aircraft maintenance facility.

We dismiss the protest pursuant to 4 C.F.R. § 21.3(f) (1985), which provides for dismissal of a protest without obtaining an agency report where it is clear on the face of the protest that it is untimely or does not state a valid basis of protest.

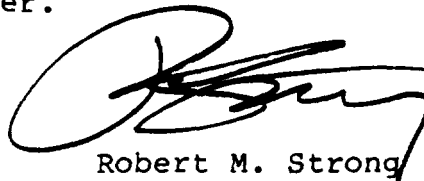
The contracting officer determined that Vrana's bid was nonresponsive because Vrana limited its bid acceptance period to 30 days while the IFB specified that bids offering less than a 60-day acceptance period would be rejected as nonresponsive. After bid opening, Vrana asserted that the 30-day acceptance period was a typographical error and offered to provide a 60-day acceptance period. When the contracting officer declined to accept this attempted bid modification, Vrana protested to the Army, which denied the protest.

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Vrana has protested to our Office alleging that the 60-day acceptance period requirement was excessive and, therefore, should be considered either void or immaterial, since it was more time than was necessary for the Army to evaluate the bids and make an award. This allegation constitutes a protest of an alleged apparent solicitation impropriety which, under GAO Bid Protest Regulations, must be filed prior to bid opening. 4 C.F.R. § 21.2(a)(1) (1985). Since Vrana's protest was filed after bid opening, it is untimely.

With respect to Vrana's contention that it should have been permitted to modify its bid acceptance period after bid opening because its bid was low by approximately \$47,000 and, therefore, there would have been no prejudice to other bidders, we have expressly rejected this argument. Such an extension would necessarily be prejudicial to other bidders who offered the required bid acceptance period because a bidder who offers the longer acceptance period assumes a greater risk of price or market fluctuations than a bidder who does not. Ramal Industries Inc., 60 Comp. Gen. 666 (1981), 81-2 C.P.D. ¶ 177. We have consistently held that an IFB requirement that a bid remain available for acceptance by the government for a prescribed time period to be considered for award is a material requirement and is not waivable or correctable after bid opening. Amcon Systems, Inc., B-209255, Jan. 24, 1983, 83-1 C.P.D. ¶ 80; Miles Metal Corporation, 54 Comp. Gen. 750 (1975), 75-1 C.P.D. ¶ 145. Accordingly, the Army's rejection of Vrana's bid as nonresponsive was proper.



Robert M. Strong
Deputy Associate General Counsel